

# House File 136 - Introduced

HOUSE FILE 136

BY FISHER

## A BILL FOR

1 An Act relating to temporary restraining orders and protective  
2 orders for certain minors.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1     Section 1. NEW SECTION.   233C.1   Definitions.

2     As used in this chapter, unless the context otherwise  
3 requires:

4     1.   *"Harassment"* means any of the following:

- 5       *a.*   A single incident of physical or sexual assault or  
6 repeated incidents of intrusive or unwanted acts, words, or  
7 gestures that have a substantial adverse effect or are intended  
8 to have a substantial adverse effect on the safety, security,  
9 or privacy of another person.  
10      *b.*   Targeted residential picketing.  
11      *c.*   A pattern of attending public events after being notified  
12 that the person's presence at the event is harassing to another  
13 person.

14     2.   *"Minor"* means an unmarried person who is under the age  
15 of eighteen years.

16     3.   *"Relative"* means a person related by consanguinity within  
17 the second degree, a spouse, or a person related to a spouse  
18 within the second degree, and includes a person in an adoptive  
19 relationship within the second degree.

20     4.   *"Respondent"* means a person alleged to have engaged in  
21 harassment who is not a relative of the victim.

22     5.   *"Target residential picketing"* means any of the following  
23 acts when committed on more than one occasion:

24       *a.*   Marching, standing, or patrolling by one or more persons  
25 directed solely at a particular residential building in a  
26 manner that adversely affects the safety, security, or privacy  
27 of an occupant of the building.

28       *b.*   Marching, standing, or patrolling by one or more persons  
29 which prevents an occupant of a residential building from  
30 gaining access to or exiting from the property on which the  
31 residential building is located.

32     Sec. 2. NEW SECTION.   233C.2   Temporary restraining order —  
33 protective order.

34     1.   The parent or legal guardian of a minor who is a victim  
35 of harassment may seek, on behalf of the minor, a temporary

1 restraining order or a protective order against a respondent  
2 from the court as provided in this section.

3     2. Upon petition, the court shall issue a temporary  
4 restraining order prohibiting the harassment of a minor if  
5 the court finds, from specific facts shown by affidavit or  
6 by verified complaint, that there are reasonable grounds to  
7 believe that harassment of the minor by the respondent exists  
8 or that the order is necessary to prevent and restrain future  
9 harassment.

10     *a.* A temporary restraining order may be issued under this  
11 section without written or oral notice to the respondent or  
12 the respondent's attorney in a civil action under this section  
13 if the court finds, upon written certification of facts,  
14 that the notice should not be required and that there is a  
15 reasonable probability that the petitioner bringing the action  
16 will prevail on the merits. The temporary restraining order  
17 shall set forth the reasons for the issuance of the order and  
18 describe in reasonable detail the act or acts being restrained.

19     *b.* A temporary restraining order issued without notice  
20 under this section shall be endorsed with the date and hour of  
21 issuance and be filed immediately in the office of the clerk of  
22 the district court issuing the order. A copy of the temporary  
23 restraining order must be served on the respondent along with  
24 a copy of the petition.

25     *c.* When a temporary restraining order is issued without  
26 notice, the motion for a protective order shall be set down for  
27 hearing at the earliest possible time and takes precedence over  
28 all matters except older matters of the same character. If the  
29 petitioner does not proceed with the petition for a protective  
30 order when the motion is heard, the court shall dissolve the  
31 temporary restraining order.

32     *d.* If, after two days' notice to the respondent or after a  
33 shorter notice as the court prescribes, the respondent appears  
34 and moves to dissolve or modify the temporary restraining  
35 order, the court shall proceed to hear and determine the motion

1 as expeditiously as possible.

2 3. Upon motion of the petitioner, the court shall issue  
3 a protective order prohibiting the harassment of a minor by  
4 the respondent if the court, after a hearing, finds by a  
5 preponderance of the evidence that harassment of the minor by  
6 the respondent exists or that the order is necessary to prevent  
7 and restrain future harassment.

8 a. At the hearing, the respondent named in the petition has  
9 the right to present evidence and cross-examine witnesses.

10 b. A protective order shall set forth the reasons for the  
11 issuance of the order and describe in reasonable detail the act  
12 or acts being restrained.

13 c. The court shall set the duration of the protective order  
14 for the period the court determines is necessary to prevent the  
15 harassment of the minor by the respondent, but the duration  
16 shall not be set for a period in excess of one year from the  
17 date of the issuance of the order. The petitioner, at any time  
18 within ninety days before the expiration of the order, may  
19 petition for a new protective order under this section.

20 4. In lieu of personal service of an order for protection  
21 issued pursuant to this section, the sheriff of any county in  
22 this state, and other law enforcement and corrections officers  
23 may serve a respondent with a short-form notification pursuant  
24 to section 664A.4A.

25 Sec. 3. NEW SECTION. 233C.3 Violation of a restraining  
26 order or protective order.

27 Violation of a temporary restraining order or protective  
28 order issued under this chapter shall be punished under section  
29 664A.7.

30 Sec. 4. Section 562A.27A, subsection 3, paragraph a,  
31 subparagraph (1), Code 2015, is amended to read as follows:

32 (1) The tenant seeks a protective order, restraining order,  
33 order to vacate the homestead, or other similar relief pursuant  
34 to chapter 233C, 235F, 236, 598, 664A, or 915, or any other  
35 applicable provision which would apply to the person conducting

1 the activities causing the clear and present danger.

2 Sec. 5. Section 562B.25A, subsection 3, paragraph a,  
3 subparagraph (1), Code 2015, is amended to read as follows:

4 (1) The tenant seeks a protective order, restraining order,  
5 order to vacate the homestead, or other similar relief pursuant  
6 to chapter 233C, 235F, 236, 598, 664A, or 915, or any other  
7 applicable provision which would apply to the person conducting  
8 the activities causing the clear and present danger.

9 Sec. 6. Section 602.8105, subsection 1, Code 2015, is  
10 amended by adding the following new paragraph:

11 NEW PARAGRAPH. k. For filing and docketing a petition  
12 pursuant to chapter 233C, fifty dollars.

13 Sec. 7. Section 664A.1, subsection 2, Code 2015, is amended  
14 to read as follows:

15 2. "*Protective order*" means a protective order issued  
16 pursuant to chapter 232, a temporary restraining order or  
17 protective order issued pursuant to chapter 233C, a court  
18 order or court-approved consent agreement entered pursuant to  
19 this chapter or chapter 235F, a court order or court-approved  
20 consent agreement entered pursuant to chapter 236, including a  
21 valid foreign protective order under section 236.19, subsection  
22 3, a temporary or permanent protective order or order to vacate  
23 the homestead under chapter 598, or an order that establishes  
24 conditions of release or is a protective order or sentencing  
25 order in a criminal prosecution arising from a domestic abuse  
26 assault under section 708.2A, or a civil injunction issued  
27 pursuant to section 915.22.

28 Sec. 8. Section 664A.2, subsection 2, Code 2015, is amended  
29 to read as follows:

30 2. A protective order issued in a civil proceeding shall  
31 be issued pursuant to chapter 232, 233C, 235F, 236, 598, or  
32 915. Punishment for a violation of a protective order shall be  
33 imposed pursuant to section 664A.7.

34 Sec. 9. Section 664A.5, Code 2015, is amended to read as  
35 follows:



1 a substantial adverse effect or are intended to have a  
2 substantial adverse effect on the safety, security, or privacy  
3 of another person, targeted residential picketing, or a  
4 pattern of attending public events after being notified that  
5 the person's presence at the event is harassing to another  
6 person. "Target residential picketing" means, when committed  
7 on more than one occasion, marching, standing, or patrolling  
8 by one or more persons either directed solely at a particular  
9 residential building in a manner that adversely affects the  
10 safety, security, or privacy of an occupant of the building  
11 or which prevents an occupant of a residential building from  
12 gaining access to or exiting from the property on which the  
13 residential building is located.

14 The bill provides that if a minor is a victim of harassment,  
15 a minor's parent or legal guardian may institute an action for  
16 a temporary restraining order or protective order against the  
17 person alleged to be harassing the minor, provided that such  
18 person is not a relative of the minor.

19 The bill sets forth the procedure for filing a petition for  
20 a temporary restraining order. A temporary restraining order  
21 may be issued without notice to the alleged harasser, but when  
22 issued without notice the motion for a protective order shall  
23 be set down for hearing at the earliest possible time.

24 The bill sets forth the procedure for the petitioner to  
25 file a motion for a protective order. At a hearing for a  
26 protective order, the alleged harasser may present evidence and  
27 cross-examine witnesses. A protective order is for a duration  
28 set by the court not to exceed one year, but the petitioner  
29 may apply for a new protective order within 90 days before the  
30 expiration of an existing protective order.

31 The violation of a temporary restraining order or protective  
32 order is a violation under Code section 664A.7. Under  
33 Code section 664A.7, a respondent who violates a temporary  
34 restraining order or a protective order is punished by summary  
35 contempt proceedings, and if convicted or held in contempt the

1 respondent shall serve a jail sentence. For a violation of a  
2 temporary restraining order or a protective order, Code section  
3 664A.7 further provides that such a violation is a public  
4 offense punishable as a simple misdemeanor.

5 The bill makes conforming changes in Code chapter 664A.

6 The bill provides under the landlord tenant law (Code  
7 chapter 562A) and landlord and tenant law relating to  
8 manufactured home communities or mobile home parks (Code  
9 chapter 562B) that if activities presenting a clear and present  
10 danger are being conducted by a person on the premises other  
11 than a tenant, the tenant is not subject to termination and  
12 notice to quit if the tenant seeks a protective order or  
13 temporary restraining order to restrain the harassment of a  
14 minor.